

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER LABRECK,

Plaintiff,

No. 15-cv-11912

vs.

Hon. Gerald E. Rosen

CITADEL INVESTMENT GROUP, INC.,
et al.,

Defendants.

/

ORDER OF DISMISSAL

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on June 7, 2016.

PRESENT: Honorable Gerald E. Rosen
United States District Judge

On May 27, 2015, Plaintiff Peter Labreck, an incarcerated individual, filed a *pro se* Complaint against Citadel Investment Group, Inc., a “John Doe” Michigan corporation, and a “John Doe” Florida corporation, claiming that the two John Doe entities filed fraudulent liens against property he owns in Clinton Township, Michigan, preventing him from obtaining clear title to the property even though he has fully paid the Mortgage debt he previously owed to Defendant Citadel. Plaintiff’s application to proceed with this action *in forma pauperis* was granted, and a summons for Citadel Investment Group was issued and provided to Plaintiff on August 31, 2015.

On February 3, 2016, this Court served upon Plaintiff an Order to Show Cause

directing Plaintiff to show cause, in writing, why this case should not be dismissed for failure to prosecute. Plaintiff responded to the Order on February 18, 2016 stating that he “has been diligently pursuing this action” but that “the United States Marshall’s [sic] service has failed to serve process upon the identified defendant.” Service of a prisoner’s complaint in a non-civil rights action, however, is not automatic; a motion is required.

Fed. R. Civ. P. 4(c)(2) provides that “[a]t the plaintiff’s request, the court may direct that service be effected by a United States marshal, deputy marshal, or by a person specially appointed by the court.” Plaintiff is obviously aware that a motion requesting service is necessary as he has filed such motions in a number of other cases he filed in this court. *See, e.g., Labreck v. Michigan Dept. of Treasury*, No. 13-15275; *Labreck v. Aaron’s Rentals*, No. 14-10247; *Labreck v. Stephenson*, No. 14-12025; *Labreck v. Sabaugh*, 15-13303. Plaintiff, however, never filed any motion requesting service by the marshal in this case.¹ Plaintiff has not otherwise explained his failure to prosecute this matter during the twelve months that this case has been pending.

For these reasons, the Court finds that Plaintiff has failed to show good cause why this case should not be dismissed for lack of prosecution. Accordingly,

IT IS HEREBY ORDERED that this case be, and hereby is, DISMISSED,
WITHOUT PREJUDICE.

s/Gerald E. Rosen
United States District Judge

Dated: June 7, 2016

¹ Although Plaintiff alleges in his Response to the Order to Show Cause that he “filed a Motion requesting assistance of service on or about June 1, 2015,” Plaintiff must be confusing what he filed in other cases as no such motion was ever filed in this case.

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 7, 2016, by electronic and/or ordinary mail.

s/Kelly Winslow for Julie Owens

Case Manager, (313) 234-5135